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Marty Riemenschneider
marty@ne-ba.org

April 10, 2007

Chairman Kevin Martin
Federal Communications Commission
445 12th Street SW- Room 8-B201
Washington, DC 20554

2007 APR 17 P 2:20

Dear Chairman Martin:

On behalf of the Nebraska Broadcasters Association, I am enclosing the resolution recently adopted by its Board of Directors. As expressed in the resolution the Nebraska Broadcasters Association is opposed to the proposed merger of the only two satellite radio companies, XM and Sirius.

The proposed merger will create a government-sanctioned monopoly which is anticompetitive and we ask that on behalf of the citizens of the state of Nebraska you vigorously oppose the merger and express your opposition to the Department of Justice, the U.S. Attorney General, the Federal Communications Commission and members of the Nebraska congressional delegation. The proposed merger will result in a monopoly that:

- o violates current Federal Communication Commission rules prohibiting only one provider of satellite radio in the satellite radio market;
- o will be able to exercise unlimited market power which will allow it o raise subscription rates without limit, reduce program diversity and cause subscribers to incur long-run equipment costs;
- o will be able to monopolize national and regional programming such as sports and entertainment events through exclusive arrangements;
- o will exploit its monopoly power and unfairly compete with other media for national advertising by offering artificially low (subsidized) advertising rates; and
- o will cross-subsidize its offering of new services and unfairly compete with local radio stations through its monopolization of the only national multi-channel, mobile, radio service in the country.

The proposed attempt to create a government-sanctioned monopoly will severely harm consumers, musicians, broadcasters and the public if it is allowed to go through. The Nebraska Broadcasters Association stands ready to assist you in opposing this merger.

Please feel free for you or staff to call me should you need any information with regard to the harmful impacts this merger will have on the citizens and consumers of Nebraska.

Sincerely,

Enclosed for the
List ABOVE

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Marty Riemenschneider
President/Executive Director

**RESOLUTION OF THE NEBRASKA BROADCASTERS ASSOCIATION OPPOSING THE
PROPOSED MERGER OF
XM AND SIRIUS SATELLITE RADIO COMPANIES**

April 10, 2007

WHEREAS, XM and Sirius Satellite radio companies have announced their plans to form a government-sanctioned monopoly leaving only one company functioning in the satellite radio market; and

WHEREAS, the Nebraska Broadcasters Association is a trade association consisting of 122 members in the state of Nebraska representing radio and television stations and companies and individuals that supply and use broadcast-related, post-production, multimedia and telecommunication equipment and services; and

WHEREAS, the Nebraska Broadcasters Association believes that such a merger creating a total government-sanctioned monopoly in the satellite radio market will be harmful to consumers, musicians, broadcasters and the public because the resulting monopoly:

- violates current Federal Communication Commission rules prohibiting only one provider of satellite radio in the satellite radio market;
- will be able to exercise unlimited market power which will allow it to raise subscription rates without limit, reduce program diversity and cause subscribers to incur long-run equipment costs;
- will be able to monopolize national and regional programming such as sports and entertainment events through exclusive arrangements;
- will exploit its monopoly power and unfairly compete with other media for national advertising by offering artificially low (subsidized) advertising rates; and
- will cross-subsidize its offering of new services and unfairly compete with local radio stations through its monopolization of the only national multi-channel, mobile, radio service in the country.

WHEREAS, in 1997 when the Federal Communications Commission first considered the issuance of licenses for satellite radio services, Sirius' predecessor filed comments with the Commission arguing that multiple providers were necessary to assure competition, guarantee program diversity and expressing concern that allowing mergers such as this to occur in the future would "have serious anticompetitive repercussions;" and

WHEREAS, the satellite radio market has not changed significantly to justify altering current federal regulatory prohibitions against such mergers; and

WHEREAS, given the past history of violating Federal Communication Commission rules by both XM and Sirius there is ample cause to be concerned and alarmed that any concessions agreed to by the merging parties will not be fulfilled; and

WHEREAS, the Nebraska Broadcasters Association believes that competition is the cornerstone to an efficient and fair marketplace and that it is wrong for the government to sanction a monopoly in the satellite radio market and thereby disadvantage consumers, musicians, broadcasters **and** the public; now, therefore. be it

RESOLVED by the Nebraska Broadcasters Association, That the Congress, the Federal Communications Commission, the Attorney General of the United States and the Justice Department and the Attorney General for the State of Nebraska ~~be~~ urged to oppose any merger between the only two competing satellite radio companies and refrain from sanctioning a monopoly that such a merger will create: and

RESOLVED FINALLY, That the President of the Nebraska Broadcasters Association transmit copies of this resolution to the:

- o Attorney General of Nebraska,
- o President of the United States Senate,
- o Speaker of the U.S. House of Representatives,
- o Members of the Nebraska Congressional Delegation,
- o Commissioners of the Federal Communications Commission, and
- o Attorney General for the United States

so that they may be apprised of the sense of the Nebraska Broadcasters Association in this matter.

For the Nebraska Broadcasters Association

Marty Riemenschneider
President/Executive Director